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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------------|------------------------|
| 09/957,415 | 09/20/2001 | Scott Thomas Elliott | RPS9 2001 0044 | 3264 |
| 47052 7590 02/05/2007 SAWYER LAW GROUP LLP PO BOX 51418 PALO ALTO, CA 94303 | | | EXAMINER CHAI, LONGBIT | |
| | | | ART UNIT 2131 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/957,415

Applicant(s)

ELLIOTT ET AL.

Examiner

Longbit Chai

Art Unit

2131

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-22.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Longbit Chai
STED 2A
PRIMARY EXAMINER
JAN 21 2007

Continuation of 11. does NOT place the application in condition for allowance because:

(1) As per claim 5 and 13 with U.S.C. 112, second paragraph rejection, Applicant asserts the term of encrypting key as recited in the claim when read in light of specification, it is clear that the term encrypting key pair refers to a specific key pair in the next to highest level in one four level encryption key hierarchy. Examiner disagrees. The specification refers the hardware key pair level, a platform key pair level and a user key pair level, as recited in the claim, to level 0, level 1 and level 2 respectively (SPEC: Page 3 / Line 5 – 17) and since each of the three different level of keys indeed belongs to an encrypting key and thereby with the unclear "encrypting key" pair, as recited in the claim, the claim is interpreted as intended to cover only three levels instead of four levels and thus rendering unclear claimed subject matter. Besides, "a specific key pair in the next to highest level in one four level encryption key hierarchy" as Applicant argued, according to the specification, should be the user key (i.e. the 3rd level or level 2) which is already recited in the claim and hence the unclear "encrypting key" pair, as recited in the claim, can not be again repeated as the user key.

(2) As per claim 7, the amendment of claim language "security processor" can not be entered at this finality stage of prosecution because the scope of a security processor is not necessary identical to that of a security chip.

(3) As per claim 1, 7, and 16, Applicant asserts Kern does not teach the recited a "tag data". Examiner disagrees. Examiner notes the broadest and reasonable claim interpretations are made, according to MPEP 2111, such that a tag data is considered as a default tag data value (for example: FFFF) indicates either with a security-binding or without a security-binding – i.e. whether or not a security key is required or not to be presented (Kern: Column 11 Line 8 – 10) and as such Kern does teach a tag data and as such applicant's arguments are respectfully traversed. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

(4) Furthermore, Applicant asserts Kern fail to teach the recited key pair material as described in the specification, a key pair includes two keys for each level. Examiner disagrees. Kern teaches the security pair can be a pair of public / private key pair for encryption purpose (Kern: Column 7 Line 25 – 26).